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UNITED STATES OF AMERICA  
10

11 UNITED STATES DISTRICT COURT

12 FOR THE CENTRAL DISTRICT OF CALIFORNIA

13 UNITED STATES OF AMERICA,

14 Plaintiff,

15 v.

16 DANIEL VILLALOBOS,

17 Defendant.

No. CR 14-132-GAF

PLEA AGREEMENT FOR DEFENDANT  
DANIEL VILLALOBOS

18  
19 1. This constitutes the plea agreement between DANIEL  
20 VILLALOBOS ("defendant") and the United States Attorney's Office for  
21 the Central District of California (the "USAO") in the above-  
22 captioned case. This agreement is limited to the USAO and cannot  
23 bind any other federal, state, local, or foreign prosecuting,  
24 enforcement, administrative, or regulatory authorities.

25 DEFENDANT'S OBLIGATIONS

26 2. Defendant agrees to:

27 a. At the earliest opportunity requested by the USAO and  
28 provided by the Court, appear and plead guilty to count one of the

1 indictment in United States v. Daniel Villalobos, CR No.14-132-GAF,  
2 which charges defendant with possession with intent to distribute  
3 methamphetamine in violation of 21 U.S.C. 841(a)(1), (b)(1)(B)(viii).

4 b. Not contest facts agreed to in this agreement.

5 c. Abide by all agreements regarding sentencing contained  
6 in this agreement.

7 d. Appear for all court appearances, surrender as ordered  
8 for service of sentence, obey all conditions of any bond, and obey  
9 any other ongoing court order in this matter.

10 e. Not commit any crime; however, offenses that would be  
11 excluded for sentencing purposes under United States Sentencing  
12 Guidelines ("U.S.S.G." or "Sentencing Guidelines") § 4A1.2(c) are not  
13 within the scope of this agreement.

14 f. Be truthful at all times with Pretrial Services, the  
15 United States Probation Office, and the Court.

16 g. Pay the applicable special assessment at or before the  
17 time of sentencing unless defendant lacks the ability to pay and  
18 prior to sentencing submits a completed financial statement on a form  
19 to be provided by the USAO.

20 THE USAO'S OBLIGATIONS

21 3. The USAO agrees to:

22 a. Not contest facts agreed to in this agreement.

23 b. Abide by all agreements regarding sentencing contained  
24 in this agreement.

25 c. At the time of sentencing, move to dismiss the  
26 remaining counts of the indictment as against defendant. Defendant  
27 agrees, however, that at the time of sentencing the Court may  
28 consider any dismissed charges in determining the applicable

1 Sentencing Guidelines range, the propriety and extent of any  
2 departure from that range, and the sentence to be imposed.

3 d. At the time of sentencing, provided that defendant  
4 demonstrates an acceptance of responsibility for the offense up to  
5 and including the time of sentencing, recommend a two-level reduction  
6 in the applicable Sentencing Guidelines offense level, pursuant to  
7 U.S.S.G. § 3E1.1, and recommend and, if necessary, move for an  
8 additional one-level reduction if available under that section.

9 e. Recommend that defendant be sentenced to a term of  
10 imprisonment no higher than the low end of the applicable Sentencing  
11 Guidelines range.

12 f. Dismiss the information filed on July 31, 2014, to  
13 enhance defendant's sentence pursuant to Title 21, United States  
14 Code, Section 851, based on defendant's prior convictions for felony  
15 drug offenses.

16 NATURE OF THE OFFENSE

17 4. Defendant understands that for defendant to be guilty of  
18 the crime charged in count one, that is, possession with intent to  
19 distribute methamphetamine in violation of 21 U.S.C.

20 841(a)(1), (b)(1)(B)(viii), the following must be true: (1) Defendant  
21 knowingly possessed methamphetamine; and (2) Defendant possessed it  
22 with the intent to distribute it to another person. Defendant admits  
23 that defendant is, in fact, guilty of this offense as described in  
24 count one of the indictment.

25 5. Defendant understands that for defendant to be subject to  
26 the statutory maximum and statutory minimum sentences set forth  
27 below, the government must prove beyond a reasonable doubt that  
28 defendant possessed with the intent to distribute at least five grams

1 of methamphetamine. Defendant admits that defendant, in fact,  
2 possessed with the intent to distribute at least five grams of  
3 methamphetamine, that is, 21.4 grams of methamphetamine, as described  
4 in count one of the indictment.

5 PENALTIES

6 6. Defendant understands that the statutory maximum sentence  
7 that the Court can impose for a violation of 21 U.S.C.  
8 § 841(a)(1), (b)(1)(B)(viii) is: 40 years imprisonment; a lifetime  
9 period of supervised release; a fine of \$5,000,000; and a mandatory  
10 special assessment of \$100.

11 7. Defendant understands that the statutory mandatory minimum  
12 sentence that the Court must impose for a violation of Title 21,  
13 United States Code, Section 841(a), (b)(1)(B)(viii) is: five years'  
14 imprisonment, followed by a four-year period of supervised release,  
15 and a mandatory special assessment of \$100.

16 8. Defendant understands that under 21 U.S.C. § 862a,  
17 defendant will not be eligible for assistance under state programs  
18 funded under the Social Security Act or Federal Food Stamp Act or for  
19 federal food stamp program benefits, and that any such benefits or  
20 assistance received by defendant's family members will be reduced to  
21 reflect defendant's ineligibility.

22 9. Defendant understands that supervised release is a period  
23 of time following imprisonment during which defendant will be subject  
24 to various restrictions and requirements. Defendant understands that  
25 if defendant violates one or more of the conditions of any supervised  
26 release imposed, defendant may be returned to prison for all or part  
27 of the term of supervised release authorized by statute for the  
28 offense that resulted in the term of supervised release, which could

1 result in defendant serving a total term of imprisonment greater than  
2 the statutory maximum stated above.

3 10. Defendant understands that, by pleading guilty, defendant  
4 may be giving up valuable government benefits and valuable civic  
5 rights, such as the right to vote, the right to possess a firearm,  
6 the right to hold office, and the right to serve on a jury.  
7 Defendant understands that once the court accepts defendant's guilty  
8 plea, it will be a federal felony for defendant to possess a firearm  
9 or ammunition. Defendant understands that the conviction in this  
10 case may also subject defendant to various other collateral  
11 consequences, including but not limited to revocation of probation,  
12 parole, or supervised release in another case and suspension or  
13 revocation of a professional license. Defendant understands that  
14 unanticipated collateral consequences will not serve as grounds to  
15 withdraw defendant's guilty plea.

16 11. Defendant understands that, if defendant is not a United  
17 States citizen, the felony conviction in this case may subject  
18 defendant to: removal, also known as deportation, which may, under  
19 some circumstances, be mandatory; denial of citizenship; and denial  
20 of admission to the United States in the future. The court cannot,  
21 and defendant's attorney also may not be able to, advise defendant  
22 fully regarding the immigration consequences of the felony conviction  
23 in this case. Defendant understands that unexpected immigration  
24 consequences will not serve as grounds to withdraw defendant's guilty  
25 plea.

26 FACTUAL BASIS

27 12. Defendant admits that defendant is, in fact, guilty of the  
28 offense to which defendant is agreeing to plead guilty. Defendant

1 and the USAO agree to the statement of facts provided below and agree  
2 that this statement of facts is sufficient to support a plea of  
3 guilty to the charge described in this agreement and to establish the  
4 Sentencing Guidelines factors set forth in paragraph 14 below but is  
5 not meant to be a complete recitation of all facts relevant to the  
6 underlying criminal conduct or all facts known to either party that  
7 relate to that conduct.

8 On March 27, 2013, in Pasadena, California, defendant possessed  
9 with the intent to deliver to someone else approximately 21.6 grams  
10 of 99.1% pure methamphetamine (21.4 grams of actual methamphetamine)  
11 and approximately 50 grams of a mixture or substance containing a  
12 detectible amount of heroin, which were on defendant's person and in  
13 defendant's vehicle. Also on March 27, 2013, defendant possessed  
14 \$2,074 in cash, which were proceeds from defendant's narcotics  
15 trafficking.

16 SENTENCING FACTORS

17 13. Defendant understands that in determining defendant's  
18 sentence the Court is required to calculate the applicable Sentencing  
19 Guidelines range and to consider that range, possible departures  
20 under the Sentencing Guidelines, and the other sentencing factors set  
21 forth in 18 U.S.C. § 3553(a). Defendant understands that the  
22 Sentencing Guidelines are advisory only, that defendant cannot have  
23 any expectation of receiving a sentence within the calculated  
24 Sentencing Guidelines range, and that after considering the  
25 Sentencing Guidelines and the other § 3553(a) factors, the Court will  
26 be free to exercise its discretion to impose any sentence it finds  
27 appropriate between the mandatory minimum and up to the maximum set  
28 by statute for the crime of conviction.

1 14. Defendant and the USAO agree to the following applicable  
2 Sentencing Guidelines factors:

3 Base Offense Level: 28 [U.S.S.G. § 2D1.1(c)(6)]  
4

5 Defendant and the USAO reserve the right to argue that additional  
6 specific offense characteristics, adjustments, and departures under  
7 the Sentencing Guidelines are appropriate. Defendant understands  
8 that defendant's offense level could be increased if defendant is a  
9 career offender under U.S.S.G. §§ 4B1.1 and 4B1.2. If defendant's  
10 offense level is so altered, defendant and the USAO will not be bound  
11 by the agreement to Sentencing Guideline factors set forth above.

12 15. Defendant understands that there is no agreement as to  
13 defendant's criminal history or criminal history category.

14 16. Defendant and the USAO reserve the right to argue for a  
15 sentence outside the sentencing range established by the Sentencing  
16 Guidelines based on the factors set forth in 18 U.S.C. § 3553(a)(1),  
17 (a)(2), (a)(3), (a)(6), and (a)(7).

18 WAIVER OF CONSTITUTIONAL RIGHTS

19 17. Defendant understands that by pleading guilty, defendant  
20 gives up the following rights:

- 21 a. The right to persist in a plea of not guilty.  
22 b. The right to a speedy and public trial by jury.  
23 c. The right to be represented by counsel - and if  
24 necessary have the court appoint counsel -- at trial. Defendant  
25 understands, however, that, defendant retains the right to be  
26 represented by counsel - and if necessary have the court appoint  
27 counsel - at every other stage of the proceeding.  
28



1 d. The right to be presumed innocent and to have the  
2 burden of proof placed on the government to prove defendant guilty  
3 beyond a reasonable doubt.

4 e. The right to confront and cross-examine witnesses  
5 against defendant.

6 f. The right to testify and to present evidence in  
7 opposition to the charges, including the right to compel the  
8 attendance of witnesses to testify.

9 g. The right not to be compelled to testify, and, if  
10 defendant chose not to testify or present evidence, to have that  
11 choice not be used against defendant.

12 h. Any and all rights to pursue any affirmative defenses,  
13 Fourth Amendment or Fifth Amendment claims, and other pretrial  
14 motions that have been filed or could be filed.

15 WAIVER OF APPEAL OF CONVICTION

16 18. Defendant understands that, with the exception of an appeal  
17 based on a claim that defendant's guilty plea was involuntary, by  
18 pleading guilty defendant is waiving and giving up any right to  
19 appeal defendant's conviction on the offense to which defendant is  
20 pleading guilty, including any right to appeal the adverse  
21 determination of defendant's "Motion to Suppress Evidence Derived  
22 from Unlawful Stop, Detention and Search" filed on August 4, 2014.

23 LIMITED MUTUAL WAIVER OF APPEAL OF SENTENCE

24 19. Defendant agrees that, provided the Court imposes a total  
25 term of imprisonment on all counts of conviction of no more than 188  
26 months, defendant gives up the right to appeal all of the following:  
27 (a) the procedures and calculations used to determine and impose any  
28 portion of the sentence; (b) the term of imprisonment imposed by the



1 Court; (c) the fine imposed by the court, provided it is within the  
2 statutory maximum; (d) the term of probation or supervised release  
3 imposed by the Court, provided it is within the statutory maximum;  
4 and (e) any of the following conditions of probation or supervised  
5 release imposed by the Court: the conditions set forth in General  
6 Orders 318, 01-05, and/or 05-02 of this Court; the drug testing  
7 conditions mandated by 18 U.S.C. §§ 3563(a)(5) and 3583(d); and the  
8 alcohol and drug use conditions authorized by 18 U.S.C. § 3563(b)(7).

9 20. Defendant also gives up any right to bring a post-  
10 conviction collateral attack on the conviction or sentence, except a  
11 post-conviction collateral attack based on a claim of ineffective  
12 assistance of counsel, a claim of newly discovered evidence, or an  
13 explicitly retroactive change in the applicable Sentencing  
14 Guidelines, sentencing statutes, or statutes of conviction.

15 21. This agreement does not affect in any way the right of the  
16 USAO to appeal the sentence imposed by the Court.

17 22. The USAO agrees that, provided all portions of the sentence  
18 are at or above the statutory minimum and at or below the statutory  
19 maximum specified above, the USAO gives up its right to appeal any  
20 portion of the sentence.

21 RESULT OF WITHDRAWAL OF GUILTY PLEA

22 23. Defendant agrees that if, after entering a guilty plea  
23 pursuant to this agreement, defendant seeks to withdraw and succeeds  
24 in withdrawing defendant's guilty plea on any basis other than a  
25 claim and finding that entry into this plea agreement was  
26 involuntary, then (a) the USAO will be relieved of all of its  
27 obligations under this agreement; and (b) should the USAO choose to  
28 pursue any charge or any allegation of a prior conviction for a

1 felony drug offense that was either dismissed or not filed as a  
2 result of this agreement, then (i) any applicable statute of  
3 limitations will be tolled between the date of defendant's signing of  
4 this agreement and the filing commencing any such action; and  
5 (ii) defendant waives and gives up all defenses based on the statute  
6 of limitations, any claim of pre-indictment delay, or any speedy  
7 trial claim with respect to any such action, except to the extent  
8 that such defenses existed as of the date of defendant's signing this  
9 agreement.

10 RESULT OF VACATUR, REVERSAL OR SET-ASIDE

11 24. Defendant agrees that if the count of conviction is  
12 vacated, reversed, or set aside, both the USAO and defendant will be  
13 released from all their obligations under this agreement.

14 EFFECTIVE DATE OF AGREEMENT

15 25. This agreement is effective upon signature and execution of  
16 all required certifications by defendant, defendant's counsel, and an  
17 Assistant United States Attorney.

18 BREACH OF AGREEMENT

19 26. Defendant agrees that if defendant, at any time after the  
20 signature of this agreement and execution of all required  
21 certifications by defendant, defendant's counsel, and an Assistant  
22 United States Attorney, knowingly violates or fails to perform any of  
23 defendant's obligations under this agreement ("a breach"), the USAO  
24 may declare this agreement breached. All of defendant's obligations  
25 are material, a single breach of this agreement is sufficient for the  
26 USAO to declare a breach, and defendant shall not be deemed to have  
27 cured a breach without the express agreement of the USAO in writing.  
28 If the USAO declares this agreement breached, and the Court finds

1 such a breach to have occurred, then: (a) if defendant has previously  
2 entered a guilty plea pursuant to this agreement, defendant will not  
3 be able to withdraw the guilty plea, and (b) the USAO will be  
4 relieved of all its obligations under this agreement.

5 27. Following the Court's finding of a knowing breach of this  
6 agreement by defendant, should the USAO choose to pursue any charge  
7 or any allegation of a prior conviction for a felony drug offense  
8 that was either dismissed or not filed as a result of this agreement,  
9 then:

10 a. Defendant agrees that any applicable statute of  
11 limitations is tolled between the date of defendant's signing of this  
12 agreement and the filing commencing any such action.

13 b. Defendant waives and gives up all defenses based on  
14 the statute of limitations, any claim of pre-indictment delay, or any  
15 speedy trial claim with respect to any such action, except to the  
16 extent that such defenses existed as of the date of defendant's  
17 signing this agreement.

18 c. Defendant agrees that: (i) any statements made by  
19 defendant, under oath, at the guilty plea hearing (if such a hearing  
20 occurred prior to the breach); (ii) the agreed to factual basis  
21 statement in this agreement; and (iii) any evidence derived from such  
22 statements, shall be admissible against defendant in any such action  
23 against defendant, and defendant waives and gives up any claim under  
24 the United States Constitution, any statute, Rule 410 of the Federal  
25 Rules of Evidence, Rule 11(f) of the Federal Rules of Criminal  
26 Procedure, or any other federal rule, that the statements or any  
27 evidence derived from the statements should be suppressed or are  
28 inadmissible.

COURT AND PROBATION OFFICE NOT PARTIES

28. Defendant understands that the Court and the United States Probation Office are not parties to this agreement and need not accept any of the USAO's sentencing recommendations or the parties' agreements to facts or sentencing factors.

29. Defendant understands that both defendant and the USAO are free to: (a) supplement the facts by supplying relevant information to the United States Probation Office and the Court, (b) correct any and all factual misstatements relating to the Court's Sentencing Guidelines calculations and determination of sentence, and (c) argue on appeal and collateral review that the Court's Sentencing Guidelines calculations and the sentence it chooses to impose are not error, although each party agrees to maintain its view that the calculations in paragraph 13 are consistent with the facts of this case. While this paragraph permits both the USAO and defendant to submit full and complete factual information to the United States Probation Office and the Court, even if that factual information may be viewed as inconsistent with the facts agreed to in this agreement, this paragraph does not affect defendant's and the USAO's obligations not to contest the facts agreed to in this agreement.

30. Defendant understands that even if the Court ignores any sentencing recommendation, finds facts or reaches conclusions different from those agreed to, and/or imposes any sentence up to the maximum established by statute, defendant cannot, for that reason, withdraw defendant's guilty plea, and defendant will remain bound to fulfill all defendant's obligations under this agreement. Defendant understands that no one -- not the prosecutor, defendant's attorney, or the Court -- can make a binding prediction or promise regarding

1 the sentence defendant will receive, except that it will be within  
2 the statutory maximum.

3 NO ADDITIONAL AGREEMENTS

4 31. Defendant understands that, except as set forth herein,  
5 there are no promises, understandings, or agreements between the USAO  
6 and defendant or defendant's attorney, and that no additional  
7 promise, understanding, or agreement may be entered into unless in a  
8 writing signed by all parties or on the record in court.

9 PLEA AGREEMENT PART OF THE GUILTY PLEA HEARING

10 32. The parties agree that this agreement will be considered  
11 part of the record of defendant's guilty plea hearing as if the

12 //

13 //

entire agreement had been read into the record of the proceeding.

AGREED AND ACCEPTED

UNITED STATES ATTORNEY'S OFFICE  
FOR THE CENTRAL DISTRICT OF  
CALIFORNIA

STEPHANIE YONEKURA  
Acting United States Attorney

  
ANGELA L. SCOTT  
Assistant United States Attorney


Date

10/1/14

  
DANIEL VILLALOBOS  
Defendant

Date

9/30/14

  
STEPHANIE THORNTON-HARRIS  
Attorney for Defendant DANIEL  
VILLALOBOS

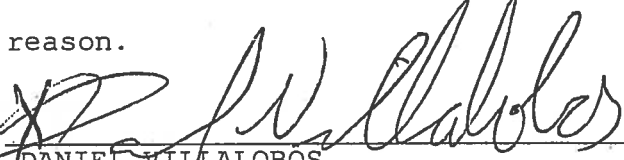
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9/30/14

CERTIFICATION OF DEFENDANT

I have read this agreement in its entirety. I have had enough time to review and consider this agreement, and I have carefully and thoroughly discussed every part of it with my attorney. I understand the terms of this agreement, and I voluntarily agree to those terms. I have discussed the evidence with my attorney, and my attorney has advised me of my rights, of possible pretrial motions that might be filed, of possible defenses that might be asserted either prior to or at trial, of the sentencing factors set forth in 18 U.S.C. § 3553(a), of relevant Sentencing Guidelines provisions, and of the consequences of entering into this agreement. No promises, inducements, or representations of any kind have been made to me other than those contained in this agreement. No one has threatened or forced me in

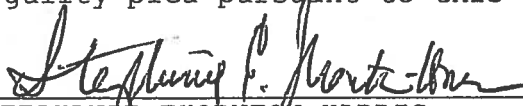
any way to enter into this agreement. I am satisfied with the representation of my attorney in this matter, and I am pleading guilty because I am guilty of the charges and wish to take advantage of the promises set forth in this agreement, and not for any other reason.

  
 DANIEL VILLALOBOS  
 Defendant

Date 9/30/14

CERTIFICATION OF DEFENDANT'S ATTORNEY

I am Daniel Villalobos's attorney. I have carefully and thoroughly discussed every part of this agreement with my client. Further, I have fully advised my client of his rights, of possible pretrial motions that might be filed, of possible defenses that might be asserted either prior to or at trial, of the sentencing factors set forth in 18 U.S.C. § 3553(a), of relevant Sentencing Guidelines provisions, and of the consequences of entering into this agreement. To my knowledge: no promises, inducements, or representations of any kind have been made to my client other than those contained in this agreement; no one has threatened or forced my client in any way to enter into this agreement; my client's decision to enter into this agreement is an informed and voluntary one; and the factual basis set forth in this agreement is sufficient to support my client's entry of a guilty plea pursuant to this agreement.

  
 STEPHANIE THORNTON-HARRIS  
 Attorney for Defendant DANIEL  
 VILLALOBOS

Date 9/30/14